Comments submitted on line at:
http://www.regulations.gov/search/Regs/home.html#submitComment?R=0900006480b54c95

Water Docket
Environmental Protection Agency
Mailcode: 28221T
1200 Pennsylvania Ave., NW.
Washington, DC 20460

Subject: Docket ID #: EPA-R03-OW-2010-0736
Draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay

Dear Environmental Professional:

Along with all environmentally-aware citizens, Maryland agricultural interests share both concern and responsibility for the health of the Chesapeake Bay. The Bay is a unique regional resource providing much to the quality of life of residents in the Mid-Atlantic area. Therefore, the Bay's health must be the responsibility of all who live in the region.

As stated in the 2000 Chesapeake Bay Agreement, all stakeholders must be partners in restoring and maintaining the health of the Chesapeake Bay and its tributaries, "Without such a partnership, future challenges will not be met. With it, the restoration and protection of the Chesapeake Bay will be ensured for generations to come." Stated another way, ensuring the long-term health of the Bay and its tributaries requires that goals be both implementable and perceived as equitable.

As a contractor hired to manage biosolids throughout the Chesapeake Bay watershed, Synagro Technologies, Inc. is pleased to have the opportunity to submit our comments on EPA's Draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay. Below we have provided some reasons we hope EPA will reevaluate its proposed course of action on this issue.

Agriculture Concerns
The latest report shows that conservation practices in the Chesapeake Bay are working. Partnerships with local landowners have made progress in reducing sediment, nutrient and pesticide losses from farm fields by implementing a variety of conservation approaches. Many farmers have voluntarily participated in non-mandatory conservation programs, such as no-till farming, buffer enhancement, nutrient management plan use and rotational grazing. Farmers feel they are not receiving sufficient credit for prior conservation efforts and now must do even more. Additionally, many in agriculture contend that agriculture is not the source of the vast majority of the nitrogen and phosphorous pollution.

- Conservation practices in use on cultivated cropland within the watershed have reduced total loads delivered to the Bay by 14 percent for sediment, 15 percent for phosphorus and 15 percent for nitrogen.
- Monitoring of the Chesapeake Bay water quality has shown consistent improvement. Susquehanna River Basin Commission monitoring stations show reductions in nitrogen, phosphorus and/or sediment.

- There are significant disagreements about the levels of conservation practices implemented by agriculture. For example, a recent Virginia Tech study showed that over 90 percent of state row crop land is in conservation-tillage, primarily no-till. Moreover, a related study showed that 37 percent of the acreage is in a winter cover or small grain crop. However, EPA counts only 15 percent of row crop land to be in conservation-tillage in its guidelines being used to develop TMDL discharge levels.
- Requirements of S. 1816 and H.R. 3852 place farmers in the Chesapeake Bay Watershed at an economic disadvantage to farmers in other states. For example, in Virginia alone, fencing livestock away from streams that feed into the Chesapeake Bay could cost in excess of $800 million.
- Farming is already an economically challenging business. Successful and implementable environmental measures must be practical, effective and not economically destructive to agriculture. Water quality programs cannot be developed in a vacuum without considering economic impacts to the economy.
- Congress should support and fund effective and positive efforts (like conservation practices assisted by programs like the USDA's Natural Resources Conservation Service -- NRCS) to help farmers meet additional nutrient and sediment reduction goals.

Biosolids Recycling Concerns
EPA's 40 CFR Part 503 sets out the requirements for safe recycling of biosolids – a by-product of our nation's clean water, on land as a fertilizer. Yet, there is a totally inaccurate statement in the ***DRAFT Chesapeake Bay TMDL (page 4-34)*** which states that, "…biosolids…represents another significant source of nutrients to the Bay." To those familiar with the biosolids recycling program, that statement is appallingly inaccurate.

- Only biosolids meeting mandatory quality guidelines are applied to the land as a fertilizer.
- Biosolids must be applied to the land according to Federal, 40 CFR Part 503, AND state regulations. These regulations are designed to ensure the protection of the environment, water quality, public health, soil productivity and animal health.
- Biosolids are land applied using mandatory buffers from surface and ground water. These buffers are significantly expanded within the Chesapeake Bay "critical area," which is defined as the area within 1000 feet of the Bay's mean high water.
- Biosolids are applied to the land at an agronomic rate, meaning that only the amount of nutrients the plant can absorb are applied, no more.
- In some states biosolids are actually applied according to nutrient management plans (NMP) that are developed by certified nutrient management planners, who are typically certified by a state department of agriculture.
- Also in many states these NMPs and/or agronomic rates are reviewed and approved by the state environmental authority prior to actual application of the biosolids to the land.

Point Source Concerns
States are expected to have difficulty enforcing the TMDL mandate. This expectation is causing concern among point sources already regulated by EPA and state environmental organizations.

- Wastewater treatment plant authorities worry that states, finding the task of writing TMDLs for runoff onerous, will instead force sharper reductions from point sources, which have discharge permits that are easier to enforce.
- Since some estimates place atmospheric deposition at an approximately 50% contribution to Chesapeake Bay pollution, many believe a water TMDL cannot achieve

water quality goals, since atmospheric since pollutants often originate in other states or countries. Therefore, as described above, many point source contributors, such as wastewater treatment facilities fear ever-tightening restrictions on output as states attempt to meet TMDL goals any way possible.

Sprawl Concerns
Many fear EPA's TMDL approach could actually encourage development sprawl in areas of the watershed with cleaner water. This would run counter to the emphasis of plans such as "smart growth" which aim to limit and confine environmental degradation, rather than spread it around. For example, officials may chose not to extend sewers into areas with aging septic systems because it would increase treatment plant discharge in an area of the watershed with an already borderline TMDL.

HR 5509 Support
Many in agriculture and beyond consider H.R. 5509, introduced by Pennsylvania Congressman Tim Holden, Vice Chairman of the House Agriculture Committee, a common-sense solution that enables economic growth and job creation, as long as states are making progress toward reaching water quality objectives set by the EPA.

- H.R. 5509 is a bipartisan alternative to H.R. 3852 (S. 1816), and provides a practical pathway for agriculture to be part of Chesapeake Bay restoration plans.
- H.R. 5509 provides incentives for implementation of environmental best management practices that go beyond minimum state regulatory compliance requirements.
- H.R. 5509 grants U.S.D.A. oversight of agriculture in the federal clean-up effort.
- H.R. 5509 encourages participation in a nutrient trading program and provides for multi-state trading arrangements.
- H.R. 5509 was unanimously approved recently by the U.S. House Agriculture Committee and reported to the full House with a recommendation for passage.

It is the goal of all in agriculture to maintain the viability of our natural resources. Few others in society have their fates tied as closely to the environment as farmers. Conservation practices implemented by farmers, with and without monetary subsidies, are examples of agriculture's recognition and commitment to this fact.

Synagro appreciates the opportunity to provide our comments on this draft legislation. We also respectfully request that EPA conduct a revised nutrient source analysis along with an economic impact analysis, before moving forward with a finalized Bay TMDL. Experts from land-grant universities from across the watershed could be called upon to evaluate the sources and actual costs. We request that any correspondence be directed by email to John Uzupis at JUzupis@synagro.com or phone at 410-284-4120.

Sincerely,

John Uzupis
Senior Technical Services Director